

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 11/12/2020

-----X
E. MISHAN & SONS, INC.,

Plaintiff,

-v-

TEKNO PRODUCTS INC., et al.,

Defendants.
-----X

19-cv-1910 (LJL)

ORDER

LEWIS J. LIMAN, United States District Judge:

Defendants request a pre-motion conference and seek an order (1) finding that Plaintiff's objections to Defendant's Second Requests and Interrogatories have been waived and ordering all documents and information responsive to the requests and interrogatories to be produced by the November 27, 2020 deadline for completion of discovery; (2) requiring Plaintiff to provide a detailed written account of its search and collection process; and (3) requiring Plaintiff to immediately provide a Rule 30(b) witness on the topic of document collection and production. Dkt No. 84. Defendants complain that Plaintiff has not produced emails and has stated that it does not expect many e-mails to be produced, a response that Defendants claim is fantastical due to the issues in the case. *Id.* Plaintiff denies making the statement that it did not expect many e-mails to be produced and claims that it is currently engaged in email searches. Dkt No. 85.

The motion is denied as premature and without prejudice to it being renewed after the November 27, 2020 close of discovery. As a general matter, discovery on discovery is frowned upon. *See, e.g., Freedman v. Weatherford Int'l Ltd.*, 2014 WL 4547039, at *2 (S.D.N.Y. Sept. 12, 2014) ("[R]equests for . . . 'meta-discovery' should be closely scrutinized in light of the danger of extending the already costly and time-consuming discovery process *ad infinitum*"). Based upon Plaintiff's representation that it has not completed the production of documents, Defendants' second and third requests are premature. If Defendants provide an "adequate factual basis" for [their] belief that discovery on discovery is warranted," *Mortg. Resol. Servicing, LLC v. JPMorgan Chase Bank, N.A.*, 2016 WL 3906712, at *7 (quoting *Freedman*, 2014 WL 4547039, at *3)), because Plaintiff's document production and interrogatory responses are deficient, the Court can address that issue after November 27 and without prejudice to Defendants by permitting a 30(b)(6) deposition and reopening discovery for the purposes of completing the discovery or, alternatively, by imposing sanctions. (The same can be said if Defendants fail to comply with their discovery requests.) As for the waiver request, Defendants' papers identify only two specific requests as to which the Plaintiff is withholding documents based on an objection: Interrogatories 14 and 19. Dkt. No. 84 at 2. As Plaintiff observes, those

Interrogatories violate Local Rules 33.3(a) and 33.3(b). Dkt. No. 85 at 3-4. Thus, with respect to those two Interrogatories, Defendants' motion is denied. As for other documents, Defendants' motion remains hypothetical at this point, as Defendants have not identified specific requests as to which the Plaintiff is withholding documents based on an objection. The Court will entertain a renewed motion after November 27, 2020 if the plaintiff is indeed withholding documents as to specific requests on the basis of an untimely objection.

SO ORDERED.

Dated: November 12, 2020
New York, New York

A handwritten signature in black ink, appearing to read 'L. Liman', is written over a horizontal line.

LEWIS J. LIMAN
United States District Judge